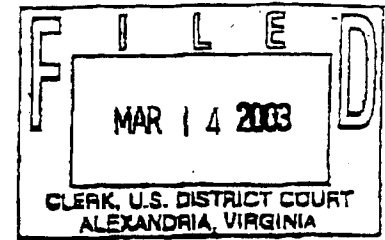


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division



UNITED STATES OF AMERICA,

v.

ZACARIAS MOUSSAOUI,
a/k/a "Shaqil"
a/k/a "Abu Khalid
al Sahrawi,"

Defendant.

Criminal No. 01-455-A

UNDER SEAL

FILED WITH
COURT SECURITY OFFICER
Meg Feltwell
DATE 3-14-03

ORDER

Before the Court is the Government's Motion to Supplement the Appellate Record (Docket #788), in which it requests that the record underlying the United States' interlocutory appeal of the January 30, 2003 ruling be supplemented to include

produced to standby defense counsel on March 10, 2003. Standby counsel oppose this motion arguing that the Federal Rules of Appellate Procedure do not contemplate the supplementation of the record to include post-judgment evidence not before the district court when it rendered its decision.

Pursuant to Fed. R. App. P. 10(e)(2), "[i]f anything material to either party is omitted from or misstated in the record by error or accident, the omission or misstatement may be corrected and a supplemental record may be certified and forwarded...by the district court..." As recognized by the United States in its motion, produced on March 10, 2003 not before the Court when it issued its

January 30, 2003 ruling from the bench because the Government had
at that time. The
absence from the record before this Court,
therefore, was not the product of "error or accident." Rather,
the United States' March 10, 2003 production to standby counsel
was in compliance with its ongoing discovery obligations in this
case. If the Government believes that the substance
is sufficiently material to alter the Court's original
ruling, it should file an appropriate motion to reconsider.
Accordingly, the Government's Motion to Supplement the Appellate
Record is DENIED.

The Clerk is directed to forward copies of this Order to
counsel for the United States; standby defense counsel; and the
Court Security Officer, who is to submit a copy of this Order for
classification review so that an appropriate version can be
provided to the pro se defendant.

Entered this 14th day of March, 2003.

/S/

Leonie M. Brinkema
United States District Judge

Alexandria, Virginia
